

# **EXHIBIT M**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

-----  
ELASTICSEARCH, INC., a ) Volume 7  
Delaware corporation, )  
ELASTICSEARCH B.V., a )  
Dutch corporation, )  
 ) Case No.  
Plaintiffs, ) 4:19-cv-05553-YGR  
 )  
vs. )  
 )  
floragunn GMBH, a German )  
corporation, )  
 )  
Defendant. )  
 )

\*\* SUBJECT TO PROTECTIVE ORDER \*\*

\*\* ATTORNEY'S EYES ONLY \*\*

REMOTE VIDEOTAPED DEPOSITION  
OF  
30(b)(6) CORPORATE REPRESENTATIVE  
JOCHEN MICHAEL KRESSIN  
Thursday, October 28, 2021  
Berlin, Germany

Reported by: B. Suzanne Hull, CSR No. 13495

Page 717

1 [REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
5 A. I don't know. 09:04:09  
6 Q. Please look at Exhibit 389. 09:04:12  
7 A. Exhibit 389. Yes. I see it. 09:04:15  
8 Q. And that is your declaration, dated 09:04:24  
9 July 26th, 2021; correct? 09:04:26  
10 A. That looks like my declaration from that 09:04:29  
11 date, yes. 09:04:33  
12 Q. Do you think anything in Exhibit 389 is 09:04:34  
13 inaccurate? 09:04:41  
14 A. I don't think anything in Exhibit 389 is not 09:04:43  
15 accurate. 09:04:46  
16 Q. When did floragunn first provide 09:04:47  
17 a search-guard.com e-mail address to Mr. Saly's wife? 09:04:52  
18 A. We assigned the search-guard e-mail first 09:05:03  
19 when she joined our company. 09:05:08  
20 Q. And when did Mr. Saly's wife join your 09:05:10  
21 company? 09:05:15  
22 A. I don't know when she joined from the top -- 09:05:15  
23 MR. RIVKIN: I'm going to object as being 09:05:18  
24 outside the scope. 09:05:22  
25 Is this within the scope of this -- this 09:05:22

Page 726

1 understanding would be maybe a couple of weeks after 09:06:40  
2 she -- she left. 09:06:43  
3 Q. And when did Mr. Saly's wife leave 09:06:45  
4 employment by floragunn? 09:06:48  
5 A. So the contract was terminated. To the best 09:06:51  
6 of my recollection, it was, I think, end of June or 09:06:55  
7 end of July -- end of July. 09:07:00  
8 Q. And that is July 2021? 09:07:04  
9 A. That is July 2021. 09:07:06  
10 Q. And during the time she was employed at 09:07:09  
11 floragunn, what was Ms. Saly's role at the company? 09:07:13  
12 A. Ms. Saly's role was mainly to help us with 09:07:17  
13 back office work, and that would mainly include 09:07:23  
14 preparation for events, conferences, booking flights, 09:07:28  
15 booking accommodations, changing flights, 09:07:37  
16 rescheduling things, and basically do paperwork 09:07:40  
17 regarding events and conferences. 09:07:45  
18 Q. Why did floragunn terminate Mr. Saly's 09:07:47  
19 wife's contract with floragunn? 09:07:56  
20 A. floragunn did not terminate the contract 09:07:59  
21 with Mr. Saly's wife. Ms. Saly terminated the 09:08:01  
22 contract with floragunn. 09:08:07  
23 Q. Do you have any understanding as to why 09:08:08  
24 Mr. Saly's wife terminated the contract with 09:08:12  
25 floragunn? 09:08:15

Page 728

1 decides to delete anything from the call log, I don't 09:19:15  
2 know. And users don't have any influence on that. 09:19:19  
3 Q. During the period March 2020 to the present, 09:19:22  
4 did you use any other phone, whether landline or 09:19:26  
5 mobile, to communicate with either Mr. or Ms. Saly? 09:19:31  
6 A. No. 09:19:36  
7 I used my iPhone for both business and 09:19:36  
8 private communication alike. 09:19:40  
9 Q. And is the same true for Ms. Kressin as 09:19:43  
10 well? 09:19:47  
11 A. The same is true for Ms. Kressin as well. 09:19:48  
12 Q. To your understanding, how were -- 09:19:52  
13 withdrawn. 09:19:58  
14 To your understanding, how was the 09:19:58  
15 information in Exhibit 391 generated? 09:20:00  
16 A. Yes. 09:20:04  
17 Q. So my question, sir, is how was it 09:20:12  
18 generated? 09:20:15  
19 A. How was it generated? 09:20:16  
20 Okay. So this was data that was pulled from 09:20:18  
21 the device directly with various tools for backup and 09:20:20  
22 data recovery, specific for iPhones. 09:20:27  
23 Q. And who pulled the data from the phone? 09:20:31  
24 A. I pulled the data from the phones. 09:20:35  
25 Q. And what tools did you use? 09:20:37

1           A. I used several tools. I used a tool called 09:20:41  
2           Elcomsoft Phone Viewer, forensic edition. I used 09:20:48  
3           a tool FoneDog Backup and Recovery. I used a tool 09:20:53  
4           called iBackup Viewer. I used a tool called 09:20:59  
5           iBackup -- iBackup Bot. And to the best of my 09:21:04  
6           recollection, I also used a tool called 09:21:11  
7           iMyFone D-Backup. 09:21:16

8           Q. And you used the same process for both your 09:21:19  
9           phone and Ms. Kressin's phone; correct? 09:21:22

10          A. Yes. 09:21:25

11                 It was the same process. 09:21:25

12          Q. During the period from March 2020 to the 09:21:27  
13           present, did you use any instant messaging platform, 09:21:37  
14           other than those posted by floragunn, to communicate 09:21:43  
15           with Mr. Saly? 09:21:48

16          A. Well, we switched to the Rocket.Chat as our 09:21:51  
17           primary messaging channel, and this is where all the 09:21:56  
18           business communication and sometimes, of course, also 09:22:00  
19           personal communication takes place. At the time 09:22:03  
20           before we did use Slack, but we switched away from 09:22:07  
21           Slack some time ago and switched to Rocket.Chat. 09:22:14

22                 And regarding personal stuff, there were 09:22:19  
23           text messages and, from time to time, we would use 09:22:25  
24           WhatsApp. 09:22:33

25          Q. Other than those platforms that you have 09:22:34

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] 09:30:18

MR. RIVKIN: Objection. 09:30:19

Which one are you referring to? The first 09:30:21

page? 09:30:24

MR. EBERHART: The first page, yes. 09:30:24

MR. RIVKIN: Okay. 09:30:26

THE WITNESS: Oh, I'm sorry. I didn't see 09:30:27

that second page. 09:30:29

MR. RIVKIN: There is -- there is multiple 09:30:30

pages. 09:30:31

THE WITNESS: Yeah. So the first one is 09:30:32

dated May 26th, 2020. 09:30:34

BY MR. EBERHART: 09:30:38












Q. I think it is dated March 26th, 2020. 09:30:39

A. March, yeah. Yeah. March. 09:30:42

[REDACTED]

[REDACTED]

[REDACTED]

09:30:55  
09:30:56  
09:31:01  
09:31:06  
09:31:09  
09:31:16  
  
  
09:31:22  
09:31:25  
09:31:26  
09:31:29  
09:31:31  
09:31:35  
  
  
  
  
  
  
  
  
  
09:32:09



1 [REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] 09:32:37  
8 Q. Please take a look at Exhibit 392. 09:32:38  
9 (Deposition Exhibit Number 392 09:33:08  
10 was marked for identification.) 09:33:09  
11 THE WITNESS: (Witness complies.) 09:33:09  
12 Still loading. 09:33:28  
13 392. Yes. I can see it. 09:33:42  
14 BY MR. EBERHART: 09:33:45  
15 [REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] 09:34:14  
23 Q. And please take a look at Exhibit 393. 09:34:20  
24 (Deposition Exhibit Number 393 09:34:30  
25 was marked for identification.) 09:34:31



1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

09:36:18

Q. In your declaration, which is Exhibit 389,  
you declare in paragraph seven:

09:36:21

09:36:27

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

09:36:46

A. Yes.

09:36:49

Q. When did the first of those communications  
occur?

09:36:49

09:36:51

A. Sorry. I need -- I need to read it; so it  
is the 389.

09:36:52

09:36:55

And which paragraph are you referring to?

09:36:56

Q. Paragraph seven --

09:36:58

A. Seven.

09:37:00

Q. -- starting at line nineteen.

09:37:01

A. Nineteen. Okay. Uh-huh.

09:37:03

Q. When did the first of those communications  
that you referenced in paragraph seven occur?

09:37:11

09:37:15



1 STATE OF CALIFORNIA )  
 ) ss.

2 COUNTY OF KERN )  
3  
4

5 I, B. Suzanne Hull, a Certified Shorthand  
6 Reporter in the State of California, holding  
7 Certificate Number 13495, do hereby certify that  
8 JOCHEN MICHAEL KRESSIN, the witness named in the  
9 foregoing deposition, was by me duly sworn; that said  
10 deposition, was taken Thursday, October 28, 2021, at  
11 the time and place set forth on the first page  
12 hereof.

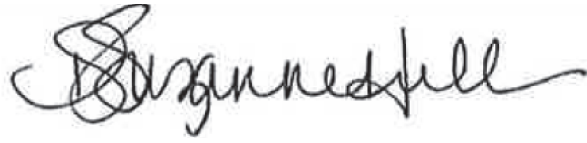
13 That upon the taking of the deposition, the  
14 words of the witness were written down by me in  
15 stenotypy and thereafter transcribed by computer  
16 under my supervision; that the foregoing is a true  
17 and correct transcript of the testimony given by the  
18 witness.

19 Pursuant to Federal Rule 30(e), transcript  
20 review was requested.

21 I further certify that I am neither counsel  
22 for nor in any way related to any party to said  
23 action, nor in any way interested in the result or  
24 outcome thereof.

25 ///

1 Dated this 28th day of October, 2021, at  
2 Bakersfield, California.

3 

4 B. Suzanne Hull, CSR No. 13495  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25